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Ontario

OFFICE CONSOLIDATION

CODIFICATION ADMINISTRATIVE

Farm Products Payments Act

Loi sur le recouvrement du prix des produits agricoles

Revised Statutes of Ontario, 1990
Chapter F.10

Lois refondues de l'Ontario de 1990
Chapitre F.10

as amended by:
1993, Chapter 27, Sched.

tel qu'il est modifié par :
l'annexe du chap. 27 de 1993

and the following Regulations (as amended):

et les règlements suivants (tels qu'ils sont modifiés) :

Fund for Egg Producers
(R.R.O. 1990, Reg. 444)
Fund for Livestock Producers
(O. Reg. 560/93)
Fund for Milk and Cream Producers
(R.R.O. 1990, Reg. 446)
Fund for Producers of Canola
(R.R.O. 1990, Reg. 447)
Fund for Producers of Grain Corn
(R.R.O. 1990, Reg. 448)
Fund for Producers of Soybeans
(R.R.O. 1990, Reg. 450)
Fund for Producers of Vegetables for Processing
(R.R.O. 1990, Reg. 451)



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NOTICE

This office consolidation is prepared for purposes of convenience only. The authoritative text is set out in the official volumes.

The Regulations in this consolidation were made in English only. No French version is available.

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CHAPTER F.10

Farm Products Payments Act

(NOTE: By Order in Council made March 30, 1994, the powers and duties of the Minister were transferred to the Minister of Agriculture, Food and Rural Affairs.)

Definitions

1. In this Act,

“board” means a board established under this Act; (“commission”)

“dealer” means a person engaged in the business of buying farm products from producers or in selling farm products on behalf of producers; (“marchand”)

“farm product” means such animals, meats, eggs, poultry, wool, milk, cream, cheese, grains, seeds, fruit, vegetables, maple products, honey or tobacco or such classes or parts thereof as are designated in the regulations; (“produit agricole”)

“fund” means a fund established under this Act; (“fonds”)

“Minister” means the Minister of Agriculture and Food; (“ministre”)

“producer” means a person who produces a farm product and includes, where so designated in the regulations,

- (a) a marketing board under the *Milk Act*,
- (b) a local board under the *Farm Products Marketing Act*,
- (c) an operator engaged in the business of operating community sales under the *Livestock Community Sales Act*, and
- (d) any person or class of persons engaged in selling a farm product or any class thereof, as an owner or owners or otherwise; (“producteur”)

“regulations” means regulations made under this Act. (“règlements”) R.S.O. 1990, c. F.10, s. 1.

Funds and boards

2.—(1) The Lieutenant Governor in Council may establish a fund for any class of producers under this Act and, where a fund is established, shall constitute a board to administer the fund and designate the name by which the board shall be known.

CHAPITRE F.10

Loi sur le recouvrement du prix des produits agricoles

(REMARQUE : Les attributions du ministre ont été transférées au ministre de l'Agriculture, de l'Alimentation et des Affaires rurales par décret du 30 mars 1994.)

Définitions

1 Les définitions qui suivent s'appliquent à la présente loi.

«commission» Commission constituée en vertu de la présente loi. («board»)

«fonds» Fonds créé en vertu de la présente loi. («fund»)

«marchand» Personne qui fait profession d'acheter des produits agricoles des producteurs ou de vendre des produits agricoles au nom des producteurs. («dealer»)

«ministre» Le ministre de l'Agriculture et de l'Alimentation. («Minister»)

«producteur» Personne qui produit un produit agricole. S'entend en outre, si les règlements les désignent à ce titre :

- a) d'une commission de commercialisation prévue par la *Loi sur le lait*,
- b) d'une commission locale prévue par la *Loi sur la commercialisation des produits agricoles*,
- c) d'un exploitant de ventes à l'encan en vertu de la *Loi sur la vente à l'encan du bétail*,
- d) d'une personne ou catégorie de personnes qui vend un produit agricole ou une catégorie de produit agricole, notamment en qualité de propriétaire. («producer»)

«produit agricole» Les animaux, les viandes, les oeufs, la volaille, la laine, le lait, la crème, le fromage, les grains, les semences, les fruits, les légumes, les produits de l'érable, le miel, le tabac ou des catégories ou parties de ces produits désignés dans les règlements. («farm product»)

«règlements» Les règlements pris en application de la présente loi. («regulations») L.R.O. 1990, chap. F.10, art. 1.

Fonds et commissions

2 (1) Le lieutenant-gouverneur en conseil peut créer un fonds pour une catégorie de producteurs en vertu de la présente loi. Dans ce cas, il constitue une commission pour gérer le fonds et désigne le nom sous lequel la commission sera connue.

Appoint-
ments and
remuneration

(2) The Lieutenant Governor in Council may appoint the members of a board and fix the remuneration of members who are not employed in the public service of Ontario.

(2) Le lieutenant-gouverneur en conseil peut nommer les membres des commissions et fixer la rémunération de ceux qui ne sont pas employés dans la fonction publique de l'Ontario.

Nomination
et rémunéra-
tion

Dissolution

(3) The Lieutenant Governor in Council may dissolve a board on such terms and conditions as he or she considers proper and may provide for the disposition of its assets and any fund administered by it.

(3) Le lieutenant-gouverneur en conseil peut dissoudre une commission aux conditions qu'il juge appropriées. Il peut prévoir la disposition de l'actif de la commission et de tout fonds géré par celle-ci.

Dissolution

Ontario
Farm Prod-
ucts
Marketing
Commission
may be a
board

(4) The Lieutenant Governor in Council may designate under subsection (1) The Ontario Farm Products Marketing Commission as a board constituted for the purposes of this Act and, when so designated, the said Commission shall be deemed for the purposes of this Act, other than subsections (5) and (6) of this section, to be a board constituted under subsection (1).

(4) Le lieutenant-gouverneur en conseil peut, en vertu du paragraphe (1), désigner la Commission de commercialisation des produits agricoles de l'Ontario comme commission constituée pour l'application de la présente loi. Dans ce cas, la Commission ainsi désignée est réputée, pour l'application de la présente loi, sauf des paragraphes (5) et (6) du présent article, une commission constituée en vertu du paragraphe (1).

La Commis-
sion de com-
mercialisation
des produits
agricoles de
l'Ontario peut
former une
commission

Incorporation

(5) Every board shall be a corporation without share capital responsible to the Minister.

(5) Les commissions sont des personnes morales sans capital-actions qui relèvent du ministre.

Constitution
en personne
morale

Exception

(6) The *Corporations Act* does not apply to a board.

(6) La *Loi sur les personnes morales* ne s'applique pas aux commissions.

Exception

Officers and
servants

(7) Such officers and servants may be appointed or transferred under the *Public Service Act* as are considered necessary from time to time for the proper conduct of the affairs of boards.

(7) Les fonctionnaires et employés jugés nécessaires au bon fonctionnement des activités des commissions peuvent être nommés ou mutés conformément à la *Loi sur la fonction publique*.

Personnel

Experts

(8) A board may engage persons other than those referred to in subsection (7) to provide professional, technical or other assistance to or on behalf of the board.

(8) Les commissions peuvent employer des personnes autres que celles mentionnées au paragraphe (7) afin de fournir de l'aide, notamment de l'aide professionnelle ou technique aux commissions ou en leur nom.

Experts

Immunity of
members

(9) No member of a board or member of the staff thereof is personally liable for anything done by it or by him or her in good faith under the authority or purporting to be under the authority of this Act. R.S.O. 1990, c. F.10, s. 2.

(9) Les membres des commissions ou de leur personnel ne sont pas personnellement responsables des actes qu'eux-mêmes ou les commissions ont accomplis de bonne foi dans l'exercice réel ou apparent des fonctions conférées par la présente loi. L.R.O. 1990, chap. F.10, art. 2.

Immunité des
membres

Application
for payment
from fund

3.—(1) Where a farm product is sold by or on behalf of a producer and,

- (a) the dealer has not paid the producer the price of the farm product within fifteen days of the time the payment became due; or
- (b) the whole or any part of the dealer's assets has been placed in the hands of a trustee for distribution under the *Bankruptcy Act* (Canada) or the *Bulk Sales Act*,

the producer may apply to the board that administers the fund for the farm product claiming payment from such fund.

3 (1) Un producteur peut réclamer de la commission qui gère le fonds pour le produit agricole un paiement, par prélèvement sur ce fonds, d'un produit agricole vendu par le producteur ou en son nom si, selon le cas :

- a) le marchand n'a pas payé au producteur le prix du produit agricole dans les quinze jours de la date d'échéance du paiement;
- b) tout ou partie de l'actif du marchand a été confié à un syndic pour être distribué en vertu de la *Loi sur la faillite* (Canada) ou de la *Loi sur la vente en bloc*.

Demande de
paiement par
prélèvement
sur le fonds

Idem

(2) Where farm produce within the meaning of the *Grain Elevator Storage Act*, is stored under that Act, and,

(2) Un propriétaire peut réclamer de la commission qui gère le fonds pour le produit de la ferme un paiement, par prélèvement

Idem

- (a) the grain elevator operator fails to deliver to the owner the whole or any part of such farm produce upon demand therefor; or
- (b) the whole or any part of the grain elevator operator's assets have been placed in the hands of a trustee for distribution under the *Bankruptcy Act* (Canada) or the *Bulk Sales Act* or in the hands of a receiver for distribution pursuant to a debenture or like instrument and the trustee or receiver fails to deliver to the owner the whole or any part of such farm produce upon demand therefor,

the owner may apply to the board that administers the fund for the farm produce claiming payment from such fund.

Producer not entitled to payment

(3) Despite subsection (1), a producer is not entitled to payment from a fund under clause (1) (a) where the regulations provide that clause (1) (a) does not apply in respect of that fund. R.S.O. 1990, c. F.10, s. 3.

Functions of a board

4.—(1) It is the function of a board and it has power,

- (a) to administer its fund;
- (b) to investigate all claims made to it under this Act and to determine the extent of their validity;
- (c) to grant or refuse the payment of claims or any part thereof and determine the amounts and manner of payment;
- (d) to recover any money to which it is entitled under this Act by suit in a court of competent jurisdiction or otherwise.

Refund where payment received twice

(2) Where a producer has received a payment from a fund and receives a payment from or on behalf of the dealer in full or partial satisfaction of the same debt for which payment from the fund was made, the producer shall pay to the board the lesser of,

- (a) the money that the producer received from or on behalf of the dealer; or
- (b) the money that the producer received from the fund.

Subrogation

(3) Where an amount is paid out of a fund, the board administering the fund is subrogated for the amount of the payment to the right of the person to whom such amount is paid and may maintain an action in the name of the board or in the name of such person against any other person or persons

sur ce fonds, si un produit de la ferme au sens de la *Loi sur l'entreposage du grain* est entreposé en vertu de cette loi et que, selon le cas :

- a) l'exploitant d'élevateur à grains fasse défaut de remettre au propriétaire tout ou partie du produit de la ferme sur demande à cet égard;
- b) tout ou partie de l'actif de l'exploitant d'élevateur à grains ait été confié à un syndic pour être distribué en vertu de la *Loi sur la faillite* (Canada) ou de la *Loi sur la vente en bloc* ou à un séquestre pour être distribué conformément à une débenture ou à un autre acte similaire, et que le syndic ou le séquestre fasse défaut de remettre au propriétaire tout ou partie du produit de la ferme sur demande à cet égard.

(3) Malgré le paragraphe (1), un producteur n'a pas droit au paiement prélevé sur un fonds en vertu de l'alinéa (1) a) si les règlements prévoient que cet alinéa ne s'applique pas à ce fonds. L.R.O. 1990, chap. F.10, art. 3.

Le producteur n'a pas droit au paiement

4 (1) Les attributions des commissions sont les suivantes :

Attributions des commissions

- a) gérer leur fonds;
- b) étudier les réclamations qui leur sont présentées en vertu de la présente loi et en déterminer la validité;
- c) accepter ou refuser le paiement de tout ou partie des réclamations et fixer les montants et le mode de paiement;
- d) recouvrer les sommes auxquelles elles ont droit en vertu de la présente loi, notamment au moyen d'une poursuite devant un tribunal compétent.

(2) Si, après avoir reçu un paiement prélevé sur un fonds, un producteur reçoit un paiement d'un marchand ou au nom de celui-ci en règlement total ou partiel de la dette pour laquelle un paiement a été prélevé sur un fonds, le producteur paie à la commission le moindre des montants suivants :

Remboursement

- a) le montant qu'il a reçu du marchand ou au nom de celui-ci;
- b) le montant qu'il a reçu par prélèvement sur le fonds.

(3) Si un montant est prélevé sur un fonds, la commission qui gère le fonds est subrogée, pour le montant du paiement, au droit de la personne à qui ce montant est payé. Elle peut ester en justice en son nom ou au nom de cette personne contre toutes autres personnes pour faire exécuter ce droit. L.R.O. 1990, chap. F.10, art. 4.

Subrogation

to enforce such right. R.S.O. 1990, c. F.10, s. 4.

Payments
into fund

5.—(1) All money to which a board is entitled shall be paid into the fund administered by it.

Payments
out of fund

(2) The expenses of a board, other than for the remuneration of its officers and servants who are employed in the public service of Ontario, shall be paid by the board out of the fund administered by it.

Advances or
loans to
board

(3) If, at any time, the amount standing to the credit of a fund is insufficient for the purpose of making payments for claims under this Act, the Lieutenant Governor in Council may authorize the Treasurer of Ontario,

(a) in the case of a fund that existed on the 12th day of July, 1977, to advance out of the Consolidated Revenue Fund to the board that administers the fund such sums as are necessary to meet the deficit; or

(b) in the case of any fund, to make out of the Consolidated Revenue Fund to the board that administers the fund loans that do not bear interest and do not exceed in the aggregate \$250,000,

on such terms and conditions as the Lieutenant Governor in Council directs.

Grant to
board

(4) Where the Lieutenant Governor in Council establishes a fund under subsection 2 (1), the Lieutenant Governor in Council may authorize the Treasurer of Ontario to make out of the Consolidated Revenue Fund to the board that administers the fund one grant in an amount not exceeding \$25,000.

Payment out
of fund

(5) Every board that administers a fund shall pay out of the fund all money required for,

(a) the payment of claims under this Act; and

(b) the repayment of advances or loans, as the case may be, under subsection (3).

Surplus

(6) A board may pay into the Consolidated Revenue Fund any surplus money in its fund that is not necessary for the current requirements of the board, and section 7 of the *Financial Administration Act* applies thereto.

Audit

(7) The accounts and financial transactions of a board shall be audited annually by the Provincial Auditor, and a report of the audit shall be made to the board and to the Minister. R.S.O. 1990, c. F.10, s. 5.

Annual
report

6.—(1) Every board shall make an annual report of its affairs to the Minister.

5 (1) Toutes les sommes auxquelles une commission a droit sont versées au fonds qu'elle gère.

Versement au
fonds

(2) Les commissions payent leurs dépenses, autres que celles consacrées à la rémunération de leurs fonctionnaires et employés de la fonction publique de l'Ontario, par prélèvement sur les fonds qu'elles gèrent.

Paiements
prélevés sur
les fonds

(3) Si le montant qui figure au crédit d'un fonds est insuffisant pour payer les réclamations en vertu de la présente loi, le lieutenant-gouverneur en conseil peut autoriser le trésorier de l'Ontario, aux conditions que fixe le lieutenant-gouverneur en conseil :

Avances ou
prêts à la
commission

a) dans le cas du fonds qui existait le 12 juillet 1977, à avancer à la commission qui gère le fonds les sommes nécessaires pour combler l'insuffisance, par prélèvement sur le Trésor;

b) dans le cas de tout fonds, à consentir à la commission qui gère le fonds, des prêts qui ne portent pas intérêt et n'excèdent pas le montant total de 250 000 \$, par prélèvement sur le Trésor.

(4) Si le lieutenant-gouverneur en conseil crée un fonds en vertu du paragraphe 2 (1), il peut autoriser le trésorier de l'Ontario à accorder, par prélèvement sur le Trésor, une subvention n'excédant pas 25 000 \$ à la commission qui gère le fonds.

Subvention à
la commission

(5) La commission qui gère un fonds prélève sur celui-ci les sommes nécessaires :

Paiement
prélevé sur le
fonds

a) au paiement des réclamations faites en vertu de la présente loi;

b) au remboursement des avances ou des prêts, selon le cas, consentis en vertu du paragraphe (3).

(6) Une commission peut verser au Trésor l'excédent des sommes de son fonds qui ne sont pas nécessaires aux besoins courants de la commission. L'article 7 de la *Loi sur l'administration financière* s'applique à cet égard.

Excédent

(7) Le vérificateur provincial vérifie annuellement les comptes et opérations financières de la commission. Le rapport de la vérification est remis à la commission et au ministre. L.R.O. 1990, chap. F.10, art. 5.

Vérification

6 (1) Les commissions remettent au ministre un rapport annuel de leurs activités.

Rapport
annuel

Tabling

(2) The Minister shall submit the annual report to the Lieutenant Governor in Council and shall then lay the report before the Legislative Assembly if it is in session or, if not, at the next session. R.S.O. 1990, c. F.10, s. 6.

Failure to pay fees or furnish security

7.—(1) Failure,

- (a) to pay a fee prescribed in the regulations; or
- (b) to furnish security or proof of financial responsibility in accordance with the regulations,

shall be grounds for the suspension or revocation of or refusal to issue or renew a licence under the following Acts:

1. *Farm Products Grades and Sales Act*.
2. *Farm Products Marketing Act*.
3. *Livestock and Livestock Products Act*.
4. *Livestock Community Sales Act*.
5. *Milk Act*. R.S.O. 1990, c. F.10, s. 7 (1); 1993, c. 27, Sched.

Payment from fund

(2) A board may pay from its fund the whole or any part of the costs incurred in determining financial responsibility for the purposes of an Act mentioned in subsection (1). R.S.O. 1990, c. F.10, s. 7 (2); 1993, c. 27, Sched.

Regulations

8. The Lieutenant Governor in Council may make regulations,

- (a) designating farm products for the purposes of section 1;
- (b) designating marketing boards under the *Milk Act*, local boards under the *Farm Products Marketing Act* or operators engaged in the business of operating community sales under the *Livestock Community Sales Act*, as producers and limiting the extent of any such designation;
- (c) designating as a producer any person or class of persons engaged in selling a farm product or any class thereof as an owner or owners or otherwise, and may limit the extent of any such designation;
- (d) exempting any class or classes of dealers from the application of this Act or the regulations, or any part thereof;

(2) Le ministre présente le rapport annuel au lieutenant-gouverneur en conseil et le dépose ensuite devant l'Assemblée législative. Si celle-ci ne siège pas, il le dépose à la session suivante. L.R.O. 1990, chap. F.10, art. 6.

Dépôt

7 (1) Le défaut :

- a) soit d'acquitter un droit prescrit par les règlements;
- b) soit de fournir un cautionnement ou une preuve de saine gestion financière conformément aux règlements,

Défaut d'acquitter les droits ou de fournir une garantie

est une cause de suspension ou de révocation de permis ou de refus de délivrer ou de renouveler un permis en vertu des lois suivantes :

1. *Loi sur le classement et la vente des produits agricoles*.
2. *Loi sur la commercialisation des produits agricoles*.
3. *Loi sur le bétail et les produits du bétail*.
4. *Loi sur la vente à l'encan du bétail*.
5. *Loi sur le lait*. L.R.O. 1990, chap. F.10, par. 7 (1); 1993, chap. 27, annexe.

(2) Une commission peut prélever sur son fonds tout ou partie des frais engagés pour déterminer la saine gestion financière en vue de l'application d'une loi visée au paragraphe (1). L.R.O. 1990, chap. F.10, par. 7 (2); 1993, chap. 27, annexe.

Prélèvement sur le fonds

8 Le lieutenant-gouverneur en conseil peut, par règlement :

Règlements

- a) désigner les produits agricoles pour l'application de l'article 1;
- b) désigner comme producteurs les commissions de commercialisation prévues par la *Loi sur le lait*, les commissions locales prévues par la *Loi sur la commercialisation des produits agricoles* ou les exploitants de ventes à l'encan en vertu de la *Loi sur la vente à l'encan du bétail*, et limiter l'étendue de cette désignation;
- c) désigner comme producteur une personne ou catégorie de personnes qui vend un produit agricole ou une catégorie de produit agricole, notamment en qualité de propriétaire, et limiter l'étendue de cette désignation;
- d) exempter une ou plusieurs catégories de marchands de l'application de la présente loi ou des règlements ou d'une partie de ceux-ci;

- (e) exempting any class or classes of producers from the application of this Act or the regulations, or any part thereof;
- (f) prescribing conditions for the exemption of any class or classes of dealers or producers;
- (g) prescribing by-laws for regulating the government of boards and the conduct of their affairs, but any board may make by-laws not inconsistent with this Act or with the regulations;
- (h) providing that clause 3 (1) (a) does not apply in respect of a fund;
- (i) prescribing additional conditions to those referred to in subsection 3 (1) under which a producer may apply for payment from a fund and providing for such applications and for payments from the fund;
- (j) requiring dealers or producers, or both, to pay fees to a board and prescribing the amounts and the times and manner of payment thereof, and providing for the collecting thereof;
- (k) requiring the furnishing of security or proof of financial responsibility by dealers engaged in the marketing of a farm product in respect of which a fund is established and providing for the administration, forfeiture and disposition of any money or securities so furnished;
- (l) prescribing the manner in which and the conditions under which a dealer shall make payment to producers for a farm product in respect of which a fund is established;
- (m) prescribing, for the purposes of clause 3 (1) (a), the times when payments become due for a farm product in respect of which a fund is established;
- (n) prescribing the terms and conditions under which a person who sells a farm product on behalf of a producer and who is designated as a producer may claim payment from a fund and receive payment therefrom;
- (o) providing procedures for the determination and payment of claims including the grounds upon which a board may pay or refuse to pay claims;
- e) exempter une ou plusieurs catégories de producteurs de l'application de la présente loi ou des règlements ou d'une partie de ceux-ci;
- f) prescrire les conditions régissant l'exemption d'une ou de plusieurs catégories de marchands ou de producteurs;
- g) prescrire des règlements administratifs régissant l'administration des commissions et l'exercice de leurs activités; mais les commissions peuvent adopter des règlements administratifs qui ne sont pas incompatibles avec la présente loi ou les règlements;
- h) prévoir la non-application à l'égard d'un fonds de l'alinéa 3 (1) a);
- i) prescrire d'autres conditions s'ajoutant à celles mentionnées au paragraphe 3 (1) en vertu desquelles un producteur peut demander paiement par prélèvement sur un fonds; prévoir une telle demande et les paiements par prélèvement sur le fonds;
- j) exiger des marchands et des producteurs, ou de l'un des deux, l'acquittement de droits à une commission; fixer les montants, les délais et mode d'acquittement de ces droits et en prévoir la perception;
- k) exiger qu'un cautionnement ou une preuve de saine gestion financière soient fournis par les marchands qui commercialisent un produit agricole à l'égard duquel un fonds est créé, et prévoir la gestion, la confiscation et la disposition de toutes sommes ou cautionnement ainsi fournis;
- l) prescrire le mode et les conditions suivant lesquels un marchand est tenu de faire un paiement aux producteurs pour un produit agricole à l'égard duquel un fonds est créé;
- m) fixer, pour l'application de l'alinéa 3 (1) a), la date d'échéance des paiements pour un produit agricole à l'égard duquel un fonds est créé;
- n) prescrire les conditions suivant lesquelles la personne qui vend un produit agricole au nom d'un producteur et qui est désignée comme producteur peut réclamer et recevoir un paiement par prélèvement sur un fonds;
- o) prévoir une procédure pour déterminer et payer les réclamations, y compris les motifs pour lesquels une commission peut les payer ou refuser de les payer;

- (p) limiting the amount that may be paid out of a fund,
 - (i) to any producer or class thereof, or
 - (ii) respecting any dealer or class thereof;
 - (q) prescribing forms and providing for their use;
 - (r) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1990, c. F.10, s. 8; 1993, c. 27, Sched.
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- p) limiter le montant qui, par prélèvement sur un fonds, peut être payé :
 - (i) soit à un producteur ou une catégorie de producteurs,
 - (ii) soit à l'égard d'un marchand ou d'une catégorie de marchands;
 - q) prescrire des formules et prévoir les modalités de leur emploi;
 - r) traiter de toute question nécessaire ou utile pour réaliser efficacement l'objet de la présente loi. L.R.O. 1990, chap. F.10, art. 8; 1993, chap. 27, annexe.
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Farm Products Payments Act

Loi sur le recouvrement du prix des produits agricoles

REGULATION 444

FUND FOR EGG PRODUCERS

1. In this Regulation,

“Board” means the Egg Fund Board constituted by this Regulation;

“dealer” means a person engaged in the business of buying eggs from producers;

“eggs” means ungraded eggs of a domestic hen, other than hatching eggs;

“Fund” means the Fund for Egg Producers established by this Regulation;

“hatching eggs” means eggs of a domestic hen produced for the purpose of hatching into chicks;

“local board” means The Ontario Egg Producers’ Marketing Board;

“producer” means a person who produces eggs in Ontario. R.R.O. 1990, Reg. 444, s. 1.

2. The fund known as the Fund for Egg Producers is continued. R.R.O. 1990, Reg. 444, s. 2.

3. Eggs are designated as a farm product for the purpose of the Act. R.R.O. 1990, Reg. 444, s. 3.

4. (1) There shall be a board to be known as the “Egg Fund Board” to administer the Fund.

(2) The Board shall consist of five members appointed by the Lieutenant Governor in Council under subsection 2 (2) of the Act.

(3) The Board shall elect from among its members a chair and a vice-chair on or before the thirtieth day after the appointment of the Board in 1981 and on or before the 30th day of April in every year thereafter.

(4) The chair and vice-chair hold office as such until the 30th day of April in the year next following the date of their election. R.R.O. 1990, Reg. 444, s. 4.

5. (1) Clause 3 (1) (a) of the Act does not apply in respect of the Fund. R.R.O. 1990, Reg. 444, s. 5.

(2) Despite subsection (1), a producer who sold eggs to Abraham Poultry Farm Limited during the weeks of October 15 and October 22, 1989 may apply to the Board claiming payment from the Fund. O. Reg. 153/92, s. 1.

6. (1) Every dealer shall pay to the Board fees at the rate of two-tenths of a cent for each fifteen dozen eggs bought from a producer.

(2) The local board shall deduct, from the money payable by it to a dealer, any fees payable by the dealer to the Board in respect of eggs bought in any month and shall pay such fees to the Board not later than the fifteenth day of the following month.

(3) Every dealer shall pay to the Board any fees payable in respect of eggs bought in any month, that were not deducted and paid by the local board under subsection (2), not later than the thirtieth day of the following month. R.R.O. 1990, Reg. 444, s. 6.

7. (1) Every producer shall pay to the Board fees at the rate of one cent for each fifteen dozen eggs sold to a dealer.

(2) Every dealer who buys eggs from a producer shall deduct from the money payable to the producer for the eggs bought in any month the fees payable by the producer to the Board in respect of such eggs and shall pay such fees to the Board not later than the fifteenth day of the following month.

(3) Every producer shall pay to the Board any fees payable in respect of eggs sold by him in any month that were not deducted and paid to the Board under subsection (2), not later than the thirtieth day of the following month. R.R.O. 1990, Reg. 444, s. 7.

8. The placing of the whole or any part of a dealer’s assets in the hands of a receiver pursuant to a debenture or like instrument is prescribed as an additional condition to those referred to in subsection 3 (1) of the Act under which a producer may apply for payment from a fund and such applications and payments shall be made in accordance with this Regulation. R.R.O. 1990, Reg. 444, s. 8.

9. (1) An application for payment from the Fund shall be made to the Board. R.R.O. 1990, Reg. 444, s. 9 (1); O. Reg. 153/92, s. 2 (1).

(2) A separate application shall be made to the Board in respect of each dealer against whom a producer has a claim. R.R.O. 1990, Reg. 444, s. 9 (2).

(3) An application shall be made not later than thirty days next following the date on which the whole or any part of the dealer’s assets has been placed in the hands of a trustee for distribution under the *Bankruptcy Act* (Canada) or the *Bulk Sales Act* or in the hands of a receiver. R.R.O. 1990, Reg. 444, s. 9 (3); O. Reg. 153/92, s. 2 (2).

(4) All fees payable under subsection 7 (1), in respect of eggs for which payment is sought, shall be paid before an application for payment from the Fund is made. R.R.O. 1990, Reg. 444, s. 9 (4).

10. On receipt of an application under section 9, the Board shall,

(a) give notice to the dealer by registered mail of the producer’s claim for payment; and

(b) notify the local board. R.R.O. 1990, Reg. 444, s. 10.

11. Where the Board determines that a claim is not valid, it shall refuse payment of the claim and shall give notice of the refusal by registered mail to the producer and to the dealer and shall also notify the local board. R.R.O. 1990, Reg. 444, s. 11.

12. Where the Board determines that a claim is valid it shall,

(a) make payment to the producer from the Fund; and

(b) notify the dealer and the local board. R.R.O. 1990, Reg. 444, s. 12.

13. The Board may refuse to make payment in respect of a claim,

(a) where any cheque received by a producer from a dealer is dishonoured by non-acceptance or non-payment unless the producer has presented the cheque for payment within fifteen days of the date on which the producer received it;

(b) where a producer has made an arrangement with the dealer whereby the time on which payment becomes due is extended;

- (c) where a producer fails to make an application within the time prescribed by subsection 9 (3); or
- (d) where the applicant and the dealer are associated in any way and the conduct of the applicant or, where the applicant is a corporation, of an officer or director of the applicant or person having power to direct the management of the applicant, caused the default in payment and in the circumstances it would be inequitable to make a payment from the Fund. R.R.O. 1990, Reg. 444, s. 13; O. Reg. 153/92, s. 3.

14. The amount that may be paid out of the Fund to a producer on any application shall not exceed the payment due for eggs for the period of fourteen consecutive days prior to the day on which the whole or any part of the dealer's assets has been placed in the hands of a trustee for distribution under the *Bankruptcy Act* (Canada) or the *Bulk Sales Act* or in the hands of a receiver. R.R.O. 1990, Reg. 444, s. 14.

Form 1 REVOKED: O. Reg. 153/92, s. 4.

Farm Products Payments Act

Loi sur le recouvrement du prix des produits agricoles

ONTARIO REGULATION 560/93

FUND FOR LIVESTOCK PRODUCERS

1. In this Regulation,

“Commissioner” means the Livestock Commissioner referred to in the *Livestock and Livestock Products Act*;

“livestock” means cattle sold for slaughter, or for feeding before slaughter, for the production of beef. O. Reg. 560/93, s. 1.

2. The Fund for Livestock Producers (the “Fund”) is continued. O. Reg. 560/93, s. 2.

3. The Livestock Financial Protection Board (the “Board”) is continued as the administrator of the Fund. O. Reg. 560/93, s. 3.

4.—(1) The Board shall be composed of at least five members consisting of,

(a) one member representing each of the Ontario Cattlemen's Association, the Canadian Meat Council and the operators of community sales under the *Livestock and Livestock Products Act*; and

(b) such other members as the Minister considers advisable.

(2) The fact that there is a vacancy in the membership of the Board does not prevent the members in office from acting as long as the number of members is equal to or greater than a quorum.

(3) Five members of the Board constitute a quorum for transacting the Board's business.

(4) The Lieutenant Governor in Council shall appoint a chair and a vice-chair of the Board from among its members. O. Reg. 560/93, s. 4.

5. Livestock are designated as a farm product. O. Reg. 560/93, s. 5.

6.—(1) The following classes of persons engaged in selling livestock are designated as producers:

1. Dealers licensed under the *Livestock and Livestock Products Act* in respect of sales made to another such dealer.
2. Operators licensed under the *Livestock and Livestock Products Act* in respect of livestock community sales made to another producer.
3. Co-operative corporations, to which the *Livestock and Livestock Products Act* does not apply pursuant to clause 2 (d) of that Act, in respect of sales of livestock by public auction to another producer.
4. Dealers licensed under the *Livestock and Livestock Products Act* in respect of sales to another producer by public auction at a stockyard operated by the Ontario Stock Yards Board.

(2) For the purposes of this section and sections 10, 12 to 17, 19 and 21, a feeder cattle finance co-operative that is eligible under the Ontario Feeder Cattle Loan Guarantee Program is a producer when it buys livestock from a producer designated as such under paragraph 2, 3 or 4 of subsection (1). O. Reg. 560/93, s. 6.

7.—(1) On a direct sale of livestock, the seller shall pay to the Board a fee of 5 cents per head of livestock.

(2) On a direct sale, the buyer shall deduct from the money payable to the seller the fees payable to the Board and, on so doing, shall give the seller a statement of the fees deducted.

(3) The buyer shall, on or before the fifteenth day of each month, forward to the Board the fees deducted under subsection (2) with respect to sales during the previous month, as well as a statement of the livestock sold on a form provided by the Board.

(4) Despite subsection (3), a buyer who buys 1,000 head of livestock or less in a year is not required to forward the fees deducted and a statement more than once a year. O. Reg. 560/93, s. 7.

8.—(1) On a consignment sale of livestock, the consignor and the consignee shall each pay to the Board a fee of 5 cents per head of livestock.

(2) On a consignment sale the consignee shall deduct from the money payable to the consignor the fees payable to the Board by the consignor and, on so doing, shall give the consignor a statement of the fees deducted.

(3) The consignee shall, on or before the fifteenth day of each month, forward to the Board the fees payable under subsections (1) and (2) with respect to sales during the previous month, as well as a statement of the livestock sold on a form provided by the Board.

(4) Despite subsection (3), a consignee that sells 1,000 head of livestock or less in a year on behalf of a consignor is not required to forward the fees deducted and a statement more than once a year. O. Reg. 560/93, s. 8.

9. On a sale of livestock to a dealer, the following are additional conditions under which a producer may apply for payment from the Fund:

1. All or part of the dealer's assets are placed in the hands of a receiver under a debenture or similar instrument.
2. The dealer ceases to carry on business. O. Reg. 560/93, s. 9.

10.—(1) On a sale of livestock to a producer, the following are additional conditions under which a producer may apply for payment from the Fund:

1. The producer who buys the livestock fails to pay for it within fifteen days after the day of sale.
2. All or part of the assets of the producer who buys the livestock are placed in the hands of a receiver under a debenture or similar instrument or of a trustee for distribution under the *Bankruptcy and Insolvency Act* (Canada) or the *Bulk Sales Act*.
3. The producer who buys the livestock ceases to carry on business.

(2) No producer may make an application for payment from the Fund in respect of a sale to another producer unless the sale takes place at least thirty days after this Regulation comes into force. O. Reg. 560/93, s. 10.

11.—(1) If an application for payment from the Fund is made in respect of a sale of livestock to a dealer, the application shall be made to the Board not later than thirty days after the day on which the earliest of the following events occurs:

1. The dealer's payment becomes due.

2. All or part of the dealer's assets are placed in the hands of a receiver or of a trustee for distribution under the *Bankruptcy and Insolvency Act* (Canada) or the *Bulk Sales Act*.

3. The dealer ceases to carry on business.

(2) The application shall be in a form satisfactory to the Board and, if an applicant claims against more than one dealer, there shall be a separate application for each claim. O. Reg. 560/93, s. 11.

12.—(1) If an application for payment from the Fund is made in respect of a sale of livestock to a producer, the applicant shall notify the Commissioner promptly of the producer's failure to pay and the application shall be made to the Board not later than thirty days after the day of sale.

(2) The application shall be in a form satisfactory to the Board and, if an applicant claims against more than one producer, there shall be a separate application for each claim. O. Reg. 560/93, s. 12.

13. Having regard to the circumstances of the case, the Board may make a payment from the Fund if an application for payment is made in substantial conformity with subsection 11 (1) or 12 (1), as the case may be. O. Reg. 560/93, s. 13.

14. On receipt of an application under section 11 or 12, the Board shall notify the dealer or producer of the claim for payment by registered mail or by courier and also notify the Commissioner. O. Reg. 560/93, s. 14.

15. If the Board decides that a claim is not valid in whole or in part, it shall refuse payment in whole or in part and notify the applicant and the dealer or producer concerned of its refusal by registered mail or by courier, and it shall also notify the Commissioner. O. Reg. 560/93, s. 15.

16. If the Board decides that a claim is valid, it shall pay the applicant and notify the dealer or the producer concerned as well as the Commissioner. O. Reg. 560/93, s. 16.

17.—(1) A dealer or a producer in respect of which the Board makes a payment shall reimburse the amount paid or begin reimbursing it by instalments in accordance with an undertaking approved by the Board.

(2) The Board shall notify the Commissioner if a dealer or a producer does not reimburse the amount paid or fails to make an instalment payment that is due. O. Reg. 560/93, s. 17.

18.—(1) The Board may refuse to pay a claim made in respect of a dealer in the following circumstances:

1. The applicant's claim for payment is in respect of a dealer who is not a dealer licensed under the *Livestock and Livestock Products Act*.
2. The applicant presents a cheque for payment later than five banking days after it is received from the dealer and the cheque is dishonoured by non-acceptance or non-payment.
3. The applicant does not apply within the time prescribed in section 11.
4. The applicant makes an arrangement with the dealer whereby the latter is given an extension of the time to pay.
5. The applicant does not notify the Commissioner promptly of the failure to pay.
6. It would be inequitable in all the circumstances to pay the claim because there is an association between the applicant and the dealer and the applicant's conduct or, if the applicant is a corporation, the conduct of an officer or director of the applicant or that of a person having power to direct the applicant's management, caused the failure to pay.

(2) In exercising its discretion under paragraph 1 of subsection (1), the Board shall take into account whether or not the applicant knew that the dealer was, at the time of the sale, unlicensed on account of the expiry, suspension, cancellation or non-renewal of the licence. O. Reg. 560/93, s. 18.

19.—(1) The Board may refuse to pay a claim made in respect of a producer in the following circumstances:

1. Subject to paragraph 2, the applicant either does not receive a cheque by way of payment or does receive a cheque but fails to present it for payment before 2 p.m. on the second banking day after the date of the sale and the cheque is dishonoured by non-acceptance or non-payment.
2. In the case of a sale to a feeder cattle finance co-operative, the applicant does not receive, on the date of the sale, a purchase order from the member of the co-operative on whose behalf the purchase is made, and either does not receive a cheque by way of payment or does receive a cheque but fails to present it for payment before 2 p.m. on the tenth day after the date of the sale and the cheque is dishonoured by non-acceptance or non-payment.
3. The applicant does not apply within the time prescribed in section 12.
4. The applicant does not notify the Commissioner promptly of the failure to pay.
5. The applicant is a producer designated as such under paragraph 2, 3 or 4 of subsection 6 (1) and does not agree in writing to reimburse the Board the full amount of any money the applicant may receive from the buyer in respect of which the applicant made the claim, up to the amount paid from the Fund to the applicant.
6. It would be inequitable in all the circumstances to pay the claim because there is an association between the producer and the applicant and the applicant's conduct, or if the applicant is a corporation, the conduct of an officer or director of the applicant or that of a person having power to direct the applicant's management, caused the failure to pay. O. Reg. 560/93, s. 19.

20. On a claim in respect of a dealer, the Board shall pay out of the Fund 90 per cent of the portion of the claim that it recognizes as valid. O. Reg. 560/93, s. 20.

21.—(1) The following rules govern payment out of the Fund of a claim made in respect of a producer who is not a feeder cattle finance co-operative:

1. No payment is made if the portion of a claim that the Board recognizes as valid is \$5,000 or less.
2. The amount that the Board shall pay is the lesser of 70 per cent of the portion of a claim that it recognizes as valid and \$75,000.
3. Once an applicant has received payment in respect of a producer, the applicant is ineligible to receive payment again in respect of that producer until the producer has reimbursed the Fund the full amount paid on the claim.

(2) The following rules govern payment out of the Fund on a claim made in respect of a feeder cattle finance co-operative:

1. No payment is made if the portion of a claim that the Board recognizes as valid is \$5,000 or less.
2. The amount that the Board shall pay is the lesser of 70 per cent of the portion of a claim that it recognizes as valid and \$75,000.
3. Once an applicant has received payment in respect of a feeder cattle finance co-operative on behalf of a particular member, the applicant is ineligible to receive payment again in respect of

that member of the co-operative until either the member or the co-operative has reimbursed the Fund the full amount paid on the claim.

(3) Paragraph 3 of subsection (2) does not prevent an applicant from receiving payment from the Fund in respect of another member of the feeder cattle finance co-operative.

(4) For the purposes of this section, a "claim",

- (a) in respect of a producer who is not a feeder cattle finance co-operative, means an application for payment in respect of all sales of livestock made to the producer at a particular location on a particular day;
- (b) in respect of a feeder cattle finance co-operative, means an application for payment in respect of all sales of livestock made to a particular member buying under the authority of the co-operative at a particular location on a particular day. O. Reg. 560/93, s. 21.

Farm Products Payments Act

Loi sur le recouvrement du prix des produits agricoles

REGULATION 446

FUND FOR MILK AND CREAM PRODUCERS

1. In this Regulation,

“cream” means cream separated from milk on the farm on which the milk is produced and supplied to a plant in Ontario;

“cream board” means The Ontario Cream Producers’ Marketing Board as constituted under the *Milk Act*;

“Director” means the Director appointed under the *Milk Act*;

“Fund” means The Fund for Milk and Cream Producers;

“marketing board” means The Ontario Milk Marketing Board as constituted under the *Milk Act*;

“milk” means milk from cows or goats;

“plant” means plant as defined in the *Milk Act*;

“producer” means a producer of milk or cream. R.R.O. 1990, Reg. 446, s. 1.

2. The fund for producers of milk or cream known as The Fund for Milk and Cream Producers is continued. R.R.O. 1990, Reg. 446, s. 2.

3. The Ontario Farm Products Marketing Commission is designated as the Board to administer the Fund, and is hereinafter referred to as the Board. R.R.O. 1990, Reg. 446, s. 3.

4. Milk and cream are designated as farm products. R.R.O. 1990, Reg. 446, s. 4.

5. The marketing board is designated as a producer. R.R.O. 1990, Reg. 446, s. 5.

6. (1) In this section,

“product” means milk from cows, milk from goats or cream;

“year” means the period from the 1st day of June in one year to the 31st day of May in the following year. R.R.O. 1990, Reg. 446, s. 6 (1).

(2) Every dealer who operates a plant shall pay to the Board 0.125 cents per hectolitre of milk and 0.035 cents per kilogram of milk-fat contained in cream purchased from the producers but the fees for each product purchased for processing in each plant shall not be less than \$100 per year nor more than \$4,000 per year. O. Reg. 182/92, s. 1.

(3) Every producer who sells milk or cream to a dealer shall pay to the Board 40 per cent of the amount payable by the dealer per year under subsection (2).

(4) The dealer shall pay the amount due under subsection (2) in respect of the sale of milk from cows to the marketing board at the same time that payment for the milk is due.

(5) The marketing board shall forward to the Board the fees payable by the marketing board and the fees received from the dealer under subsection (4) by the 21st day of the month following the month of sale.

(6) In respect of the sale of milk from goats, the dealer shall deduct from the money payable to the producer the fees payable to the Board by the producer and forward this amount plus the fees payable by the dealer to the Board by the 10th day of the month following the month of sale.

(7) The producer shall pay the amount due under subsection (3) in respect of the sale of cream to the cream board and the cream board shall forward this amount to the Board by the 21st day of the month following the month of sale.

(8) In respect of the sale of cream, the dealer shall forward the fees payable by the dealer to the Board by the 10th day of the month following the month of sale. R.R.O. 1990, Reg. 446, s. 6 (3-8).

7. The placing of the whole or any part of the assets of a dealer in the hands of a receiver pursuant to a debenture or like instrument is prescribed as an additional condition under which a producer may apply for payment from the Fund. R.R.O. 1990, Reg. 446, s. 7.

8. (1) An application for payment from the Fund shall be made to the Board in a form satisfactory to the Board.

(2) A separate application shall be made to the Board in respect of each dealer against whom a producer has a claim.

(3) An application shall be made not later than the 30th day next following the date on which,

(a) the payment in respect of which the application is made became due; or

(b) the whole or any part of the dealer’s assets has been placed in the hands of a trustee for distribution under the *Bankruptcy Act* (Canada) or the *Bulk Sales Act* or in the hands of the receiver. R.R.O. 1990, Reg. 446, s. 8.

9. On receipt of an application under section 8, the Board shall,

(a) give notice to the dealer by registered mail of the producer’s claim for payment; and

(b) notify the Director. R.R.O. 1990, Reg. 446, s. 9.

10. Where the Board determines that a claim is not valid, it shall refuse payment of the claim and shall give notice of the refusal by registered mail to the producer and to the dealer, and shall notify the Director. R.R.O. 1990, Reg. 446, s. 10.

11. Where the Board determines that a claim is valid, it shall,

(a) make payment to the producer from the Fund; and

(b) notify the dealer and the Director. R.R.O. 1990, Reg. 446, s. 11.

12. (1) Where the Board makes a payment from the Fund, the dealer in respect of whom the payment is made shall,

(a) pay to the Board; or

(b) commence to pay by instalments in accordance with an undertaking approved by the Board,

the amount paid from the Fund less the amount, if any, paid to the Board from the sale of security deposited by the dealer with the Director under Regulation 761 of Revised Regulations of Ontario, 1990.

(2) The Board shall notify the Director if a dealer fails,

(a) to comply with the provisions of subsection (1); or

(b) to make any instalment payment as it becomes due under an undertaking referred to in clause (1) (b). R.R.O. 1990, Reg. 446, s. 12.

13. (1) The Board may refuse to make payment in respect of a claim,

- (a) subject to subsection (2), where a producer claims payment in respect of a dealer who is not the holder of a licence to operate the plant under Regulation 761 of Revised Regulations of Ontario, 1990;
- (b) where any cheque received by a producer from a dealer is dishonoured by non-acceptance or non-payment unless the producer has presented the cheque for payment within ten days of the date on which the producer received it;
- (c) where a producer fails to make an application within the time prescribed by subsection 8 (3);
- (d) where a producer has made an arrangement with the dealer whereby the time on which payment becomes due is extended; or
- (e) where the applicant and the dealer are associated in any way and the conduct of the applicant or, where the applicant is a corporation, of an officer or director of the applicant or person having power to direct the management of the applicant, caused the default in payment and in the circumstances it would be inequitable to make a payment from the Fund.

(2) A producer may be paid from the Fund where the producer's claim is made in respect of milk or cream delivered to a dealer prior to the date on which the producer received notice from the Director that the licence of the dealer had been suspended or revoked or had not been renewed. R.R.O. 1990, Reg. 446, s. 13.

14. The Board, having regard to the circumstances of a case, may make payment from the Fund where a claim for payment is made in substantial conformity with subsection 8 (3). R.R.O. 1990, Reg. 446, s. 14.

15. The amount that may be paid out of the Fund to a producer on any application shall not exceed the payment due for milk or cream for a period of sixty days. R.R.O. 1990, Reg. 446, s. 15.

Farm Products Payments Act

Loi sur le recouvrement du prix des produits agricoles

REGULATION 447

FUND FOR PRODUCERS OF CANOLA

1. In this Regulation,

"Association" means the Ontario Canola Growers' Association designated under the *Farm Products Marketing Act*;

"Board" means the Grain Financial Protection Board;

"Chief Inspector" means the Chief Inspector appointed under the *Grain Elevator Storage Act*;

"dealer" means a person engaged in the business of buying canola from producers or in selling canola on behalf of producers;

"Director" means the Director appointed under the *Farm Products Grades and Sales Act*;

"Fund" means the Fund for Canola Producers;

"licence" when referring to one held by a dealer means a licence under the *Farm Products Grades and Sales Act* and when referring to one held by an operator means a licence under the *Grain Elevator Storage Act* and "licensed" has a corresponding meaning;

"operator" means a grain elevator operator within the meaning of the *Grain Elevator Storage Act*;

"producer" means a person engaged in the production of canola. R.R.O. 1990, Reg. 447, s. 1.

2. The fund known as the Fund for Canola Producers is continued. R.R.O. 1990, Reg. 447, s. 2.

3. The Board shall administer the Fund. R.R.O. 1990, Reg. 447, s. 3.

4. Canola is designated as a farm product. R.R.O. 1990, Reg. 447, s. 4.

5.—(1) A fee of \$1 per tonne of canola sold by a producer to a dealer is payable by the producer to the Board at the time of sale.

(2) The dealer shall,

(a) deduct from the money payable to the producer the fees payable to the Board by the producer; and

(b) within fifteen days after the end of every month, forward to the Association the fees payable on all sales made during the month.

(3) The Association shall forward all the fees to the Board forthwith.

(4) The dealer shall provide the producer from whom fees are deducted with a statement of the fees at the time they are deducted.

(5) Every dealer shall keep for at least two years a record of all canola purchased by the dealer and fees deducted. R.R.O. 1990, Reg. 447, s. 5.

6.—(1) If canola is sold on a deferred pricing arrangement, payment becomes due,

(a) for the percentage of the market price payable on account,

(i) if the canola is stored under the *Grain Elevator Storage Act*, on the day the canola is sold, and

(ii) in any other case, on the day the canola is delivered to the purchaser; and

(b) for the balance of the amount unpaid after payment on account, on the day the producer prices the canola to close out the contract.

(2) If delivery of and payment for canola sold under a contract are concurrent, payment becomes due on the day of delivery.

(3) If subsection (1) or (2) does not apply, payment for the canola becomes due on the day of sale.

(4) If a dealer or operator ceases to carry on business, a contract to which the dealer or operator is a party shall be considered closed out on the day the other party to the contract became aware that the business was not being carried on. R.R.O. 1990, Reg. 447, s. 6.

7. A producer shall forthwith notify the Director or Chief Inspector, as the case may be, if,

(a) a dealer has not paid the producer the price of canola within fifteen days after payment became due;

(b) a producer has reason to believe that a dealer or operator has ceased to carry on business;

(c) a producer has not received payment in respect of a sale of canola in storage as provided in subsection 18 (3) of the *Grain Elevator Storage Act* and the regulations thereunder;

(d) an operator who is storing canola on behalf of a producer fails to deliver any of the canola upon demand therefor; or

(e) any of the assets of an operator who is storing canola on behalf of a producer have been placed in the hands of a trustee for distribution under the *Bankruptcy Act* (Canada) or the *Bulk Sales Act* or in the hands of a receiver pursuant to a debenture or like instrument and the trustee or receiver fails to deliver any of the canola upon demand therefor to the producer. R.R.O. 1990, Reg. 447, s. 7.

8. The following are prescribed as additional conditions to those referred to in subsection 3 (1) of the Act under which a producer may apply for payment from the Fund:

1. Placing of any of the assets of a dealer in the hands of a receiver pursuant to a debenture or like instrument.

2. Ceasing, by a dealer or operator, to carry on business. R.R.O. 1990, Reg. 447, s. 8.

9.—(1) An application for payment from the Fund must be made to the Board in a form satisfactory to the Board.

(2) A separate application must be made to the Board in respect of each dealer against whom a producer has a claim and in respect of each operator against whom an owner has a claim.

(3) An application to the Board may be made only within the thirty-day period next following the day on which the grounds for making the claim arise. R.R.O. 1990, Reg. 447, s. 9.

10.—(1) On receiving an application under section 9 from a producer, the Board shall give notice of the claim, by registered mail, to the dealer and notify the Director of the application.

(2) On receiving an application under section 9 from an owner, the Board shall give notice of the claim, by registered mail, to the operator

and notify the Chief Inspector of the application. R.R.O. 1990, Reg. 447, s. 10.

11. The Board shall refuse payment of a claim that it determines is invalid and it shall,

- (a) give notice of the refusal, by registered mail, to the person who made the claim and to the person against whom the claim was made; and
- (b) notify the Director, if a producer made the claim, or the Chief Inspector, if an owner made the claim. R.R.O. 1990, Reg. 447, s. 11.

12. The Board shall make payment from the Fund of a claim that it determines is valid to the person who made the claim and it shall notify,

- (a) the dealer and the Director, if a producer made the claim; or
- (b) the operator and the Chief Inspector, if an owner made the claim. R.R.O. 1990, Reg. 447, s. 12.

13.—(1) A dealer in respect of whom the Board makes a payment from the Fund shall pay the amount of that payment to the Board,

- (a) in a lump sum; or
- (b) by instalments in accordance with an undertaking approved by the Board.

(2) The Board shall notify the Director if a dealer fails to make a lump sum payment or to make an instalment payment as it becomes due under an undertaking referred to in subsection (1). R.R.O. 1990, Reg. 447, s. 13.

14.—(1) The Board may refuse to make payments in respect of a claim,

- (a) subject to subsection (2), if the applicant claims payment in respect of a dealer who is not a licensed dealer;
- (b) if any cheque received by the applicant from a dealer is dishonoured by non-acceptance or non-payment unless the applicant has presented the cheque for payment within five banking days after the date the applicant received it;
- (c) if the applicant fails to make the application to the Board within the time prescribed by subsection 9 (3);
- (d) if the applicant has made an arrangement with the dealer whereby the time within which payment is to be made under subsection 6 (1) of Regulation 540 of Revised Regulations of Ontario, 1990 or under subsection 7 (1) of Regulation 383 of Revised Regulations of Ontario, 1990 is extended;
- (e) if the applicant is not the producer of the canola in respect of which the claim is made;
- (f) if the deferred pricing arrangement referred to in subsection 6 (1) is not in writing and signed by the applicant and the dealer;
- (g) if the applicant has failed to notify the Director or Chief Inspector, as the case may be, in accordance with section 7; or

- (h) if the applicant and the dealer are associated in any way and the conduct of the applicant or, where the applicant is a corporation, of an officer or director of the applicant or person having power to direct the management of the applicant, caused the default in payment and in the circumstances it would be inequitable to make a payment from the Fund.

(2) A payment from the Fund may be made to an applicant who makes a claim in respect of canola that was sold to or stored by a licensed dealer before the applicant learned that the dealer's licence had been suspended, revoked or refused renewal, or that it had expired. R.R.O. 1990, Reg. 447, s. 14.

15.—(1) The Board, having regard to the circumstances of a case, may extend the period for making an application under subsection 9 (3).

(2) If the Board extends the period for making an application under subsection (1), it may make a payment from the Fund. R.R.O. 1990, Reg. 447, s. 15.

16.—(1) The amount that may be paid out of the Fund to an applicant on any one application is,

- (a) in the case of a claim under subsection 3 (2) of the Act, 90 per cent of the market value of the canola in respect of which the claim is made on the day the grounds for making the claim arose;
- (b) in the case of a claim made in respect of a deferred pricing arrangement mentioned in subsection 6 (1), 90 per cent of the market price payable on the day the contract is closed out or considered closed out, less 75 per cent of the market price of the canola on the day payment on account was made unless the amount is more than 75 per cent, in which case the actual amount is paid;
- (c) in the case of a claim by an applicant mentioned in subsection (3), 90 per cent of the amount determined in accordance with subsections (3) and (4); and
- (d) in a case not covered by clause (a), (b) or (c), 90 per cent of the amount of the claim.

(2) For the purpose of subsection (1), any default in payment by the applicant to the producer organization under the *Advance Payment for Crops Act* (Canada) arising from any default in payment by a dealer or a failure by an operator to deliver canola shall be included in the amount of the applicant's claim.

(3) The amount of canola in respect of which a claim may be paid out of the Fund shall not exceed the percentage, calculated under subsection (4), of the amount of canola in respect of which the claim is made if the applicant is a producer who,

- (a) holds a dealer's licence and has purchased canola before the day the claim arose; or
- (b) holds an operator's licence.

(4) The percentage referred to in subsection (3) shall be calculated by dividing the amount of canola produced by the applicant by the combined amount of canola produced by the applicant, purchased by the applicant in their capacity as a dealer and stored by the applicant in their capacity as an operator. R.R.O. 1990, Reg. 447, s. 16.

Farm Products Payments Act

Loi sur le recouvrement du prix des produits agricoles

REGULATION 448

FUND FOR PRODUCERS OF GRAIN CORN

1. In this Regulation,

"Association" means the Ontario Corn Producers' Association continued under the *Agricultural and Horticultural Organizations Act*;

"Board" means the Grain Financial Protection Board;

"Chief Inspector" means the Chief Inspector appointed under the *Grain Elevator Storage Act*;

"dealer" means a person engaged in the business of buying grain corn from producers or in selling grain corn on behalf of producers;

"Director" means the Director appointed under the *Farm Products Grades and Sales Act*;

"Fund" means the Fund for Grain Corn Producers;

"grain corn" does not include popping corn, seed corn or sweet corn;

"licence" when referring to one held by a dealer means a licence under the *Farm Products Grades and Sales Act* and when referring to one held by an operator means a licence under the *Grain Elevator Storage Act* and "licensed" has a corresponding meaning;

"operator" means a grain elevator operator within the meaning of the *Grain Elevator Storage Act*;

"producer" means a person engaged in the production of grain corn. R.R.O. 1990, Reg. 448, s. 1.

2. The fund for producers of grain corn known as the Fund for Grain Corn Producers, is continued. R.R.O. 1990, Reg. 448, s. 2.

3.—(1) The board known as the Grain Financial Protection Board, which shall be composed of not fewer than five members is continued to administer the Fund.

(2) The Lieutenant Governor in Council may designate one of the members of the Board as chair and one as vice-chair. R.R.O. 1990, Reg. 448, s. 3.

4. Grain corn is designated as a farm product. R.R.O. 1990, Reg. 448, s. 4.

5.—(1) A fee of 2 cents per tonne of grain corn sold by a producer to a dealer is payable by the producer to the Board at the time of the sale.

(2) The dealer shall,

(a) deduct from the money payable to the producer the fees payable to the Board by the producer; and

(b) within fifteen days after the end of every month, forward to the Association the fees payable on all sales made during that month.

(3) The Association shall forward all such fees to the Board forthwith.

(4) The dealer shall provide the producer from whom fees are deducted with a statement of such fees at the time they are deducted.

(5) Every dealer shall keep at least for two years a record of all grain corn purchased and fees deducted. R.R.O. 1990, Reg. 448, s. 5.

6.—(1) Where grain corn is sold on a deferred pricing arrangement, payment becomes due,

(a) for the percentage of the market price payable on account,

(i) where the grain corn is stored under the *Grain Elevator Storage Act* on the day on which the grain corn is sold, and

(ii) in any other case, on the day on which the grain corn is delivered to the purchaser; and

(b) for the balance of the amount unpaid after payment on account, on the day on which the producer prices the grain corn to close out the contract.

(2) Where delivery and payment for grain corn sold under a contract are concurrent, payment becomes due on the date of delivery.

(3) Where subsection (1) or (2) does not apply, payment becomes due for the grain corn on the date of sale.

(4) Where a dealer or operator ceases to carry on business, a contract to which the dealer or operator is a party shall be considered to be closed out on the day that the other party to the contract became aware that the business was not being carried on. R.R.O. 1990, Reg. 448, s. 6.

7. Where,

(a) a dealer has not paid the producer the price of grain corn within fifteen days after the time the payment became due;

(b) a producer has reason to believe that a dealer or operator has ceased to carry on business;

(c) a producer has not received payment in respect of a sale of grain corn in storage as provided in subsection 18 (3) of the *Grain Elevator Storage Act* and the regulations thereunder; or

(d) a grain elevator operator who is storing grain corn on behalf of a producer fails to deliver the whole or any part of such grain corn upon demand therefor; or

(e) the whole or any part of the assets of a grain elevator operator who is storing grain corn on behalf of a producer have been placed in the hands of a trustee for distribution under the *Bankruptcy Act* (Canada) or the *Bulk Sales Act* or in the hands of a receiver pursuant to a debenture or like instrument and the trustee or receiver fails to deliver to the producer the whole or any part of such grain corn upon demand therefor,

the producer shall forthwith notify the Director or Chief Inspector, as the case may be. R.R.O. 1990, Reg. 448, s. 7.

8. The,

(a) placing of the whole or any part of the assets of a dealer in the hands of a receiver pursuant to a debenture or like instrument; or

(b) ceasing, by a dealer or operator, to carry on business,

is prescribed as an additional condition to those referred to in subsection 3 (1) of the Act under which a producer may apply for payment from the Fund. R.R.O. 1990, Reg. 448, s. 8.

9.—(1) An application for payment from the Fund shall be made to the Board in a form satisfactory to the Board.

(2) A separate application shall be made to the Board in respect of each dealer against whom a producer has a claim and in respect of each operator against whom an owner has a claim.

(3) An application to the Board shall be made not later than thirty days next following the date on which the ground for making the claim arises. R.R.O. 1990, Reg. 448, s. 9.

10.—(1) On receiving an application under section 9 from a producer, the Board shall give notice of the claim, by registered mail, to the dealer and notify the Director of the application.

(2) On receiving an application under section 9 from an owner, the Board shall give notice of the claim, by registered mail, to the operator and notify the Chief Inspector of the application. R.R.O. 1990, Reg. 448, s. 10.

11. Where the Board determines that a claim is not valid, it shall refuse payment of the claim and shall,

- (a) give notice of the refusal, by registered mail, to the person who made the claim and to the person against whom the claim was made; and
- (b) notify the Director, where a producer made the claim, or the Chief Inspector, where an owner made the claim. R.R.O. 1990, Reg. 448, s. 11.

12. Where the Board determines that a claim is valid, it shall make payment from the Fund to the person who made the claim and notify,

- (a) the dealer and the Director, if the claim is from a producer; or
- (b) the operator and the Chief Inspector, if the claim is from an owner. R.R.O. 1990, Reg. 448, s. 12.

13.—(1) Where the Board makes a payment from the Fund, the dealer in respect of whom the payment is made shall,

- (a) pay to the Board; or
- (b) commence to pay by instalments in accordance with an undertaking approved by the Board,

the amount paid from the Fund.

(2) Where a dealer fails,

- (a) to comply with subsection (1); or
- (b) to make any instalment payment as it becomes due under an undertaking referred to in clause (1) (b),

the Board shall notify the Director. R.R.O. 1990, Reg. 448, s. 13.

14.—(1) The Board may refuse to make payments in respect of a claim,

- (a) subject to subsection (2), where the applicant claims payment in respect of a dealer who is not a licensed dealer;
- (b) where any cheque received by the applicant from a dealer is dishonoured by non-acceptance or non-payment unless the applicant has presented the cheque for payment within five banking days of the date on which the applicant received it;
- (c) where the applicant fails to make an application to the Board within the time prescribed by subsection 9 (3);
- (d) where the applicant has made an arrangement with the dealer whereby the time on which payment shall be made under subsection 6 (1) of Regulation 540 of Revised Regulations of Ontario, 1990 or under subsection 7 (1) of Regulation 383 of Revised Regulations of Ontario, 1990 is extended;

(e) where the applicant is not the producer of the grain corn in respect of which the claim is made;

(f) where the deferred pricing arrangement referred to in subsection 6 (1) is not in writing and signed by the applicant and the dealer;

(g) where the applicant has failed to notify the Director in accordance with section 7; or

(h) where the applicant and the dealer are associated in any way and the conduct of the applicant or, where the applicant is a corporation, of an officer or director of the applicant or person having power to direct the management of the applicant, caused the default in payment and in the circumstances it would be inequitable to make a payment from the Fund.

(2) An applicant may be paid from the Fund where the claim is made in respect of grain corn sold to or stored by a dealer or operator whose licence was suspended, revoked or not renewed or had expired, if at the time the sale or storage was made the applicant was unaware of that suspension, revocation, non-renewal or expiry. R.R.O. 1990, Reg. 448, s. 14.

15. The Board, having regard to the circumstances of a case, may make payment from the Fund where a claim for payment is made in substantial conformity with subsection 9 (3). R.R.O. 1990, Reg. 448, s. 15.

16.—(1) The amount that may be paid out of the Fund to an applicant on any one application is,

- (a) in the case of a claim under subsection 3 (2) of the Act, 90 per cent of the market value of the grain corn in respect of which the claim is made on the day on which the grounds arose for making the claim;
- (b) in the case of a claim made in respect of a deferred pricing arrangement mentioned in subsection 6 (1), 90 per cent of the market price payable on the day the contract is closed out or considered to be closed out, less 75 per cent of the market price of the grain corn on the day payment on account was made unless the amount is more than 75 per cent in which case the actual amount paid;
- (c) in the case of a claim by an applicant mentioned in subsection (3), 90 per cent of the amount determined in accordance with subsections (3) and (4); and
- (d) in all cases not covered by clause (a), (b) or (c), 90 per cent of the amount of the claim.

(2) For the purpose of subsection (1), any default in payment by the claimant to the producer organization under the *Advance Payment for Crops Act* (Canada) arising from any default in payment by a dealer or a failure by an operator to deliver grain corn shall be included in the amount of the applicant's claim.

(3) Where the applicant is a producer who,

- (a) holds a licence as a dealer and has purchased grain corn prior to the day on which the claim arose; or
- (b) holds a licence as an operator and has stored grain corn for other owners prior to the day on which the claim arose,

the amount of grain corn in respect of which a claim may be paid out of the Fund shall not exceed the percentage calculated under subsection (4) of the amount of grain corn in respect of which the claim is made.

(4) The percentage prescribed by subsection (3) shall be calculated by dividing the amount of grain corn produced by the applicant by the combined amount of any grain corn produced by the applicant, purchased by the applicant in their capacity as a dealer and stored by the applicant in their capacity as an operator. R.R.O. 1990, Reg. 448, s. 16.

Farm Products Payments Act

Loi sur le recouvrement du prix des produits agricoles

REGULATION 450

FUND FOR PRODUCERS OF SOYBEANS

1. In this Regulation,

"Board" means the Grain Financial Protection Board;

"Chief Inspector" means the Chief Inspector appointed under the *Grain Elevator Storage Act*;

"dealer" means a person engaged in the business of buying soybeans from producers or in selling soybeans on behalf of producers;

"Director" means the Director appointed under the *Farm Products Grades and Sales Act*;

"Fund" means the Fund for Soybeans;

"licence" when referring to one held by a dealer means a licence under the *Farm Products Grades and Sales Act* and when referring to one held by an operator means a licence under the *Grain Elevator Storage Act*, and "licensed" has a corresponding meaning;

"local board" means The Ontario Soybean Growers' Marketing Board;

"operator" means a grain elevator operator within the meaning of the *Grain Elevator Storage Act*;

"producer" means a person engaged in the production of soybeans. R.R.O. 1990, Reg. 450, s. 1.

2. The fund known as the Fund for Soybean Producers is continued. R.R.O. 1990, Reg. 450, s. 2.

3. The Board shall administer the Fund. R.R.O. 1990, Reg. 450, s. 3.

4. Soybeans are designated as a farm product. R.R.O. 1990, Reg. 450, s. 4.

5.—(1) A fee of 2 cents per tonne of soybeans sold by a producer to a dealer is payable by the producer to the Board at the time of the sale. O. Reg. 183/93, s. 1.

(2) The dealer shall,

(a) deduct from the money payable to the producer the fees payable to the Board by the producer; and

(b) within fifteen days after the end of every month, forward to the local board the fees payable on all sales made during that month.

(3) The local board shall forward all such fees to the Board forthwith.

(4) The dealer shall provide the producer from whom fees are deducted with a statement of such fees at the time they are deducted.

(5) Every dealer shall keep at least for two years a record of all soybeans purchased and fees deducted. R.R.O. 1990, Reg. 450, s. 5 (2-5).

6.—(1) Where soybeans are sold on a deferred pricing arrangement, payment becomes due,

(a) for the percentage of the market price payable on account,

(i) where the soybeans are stored under the *Grain Elevator Storage Act*, on the day on which the soybeans are sold, and

(ii) in any other case, on the day on which the soybeans are delivered to the purchaser; and

(b) for the balance of the amount unpaid after payment on account, on the day on which the producer prices the soybeans to close out the contract.

(2) Where delivery and payment for soybeans sold under a contract are concurrent, payment becomes due on the date of delivery.

(3) Where subsection (1) or (2) does not apply, payment becomes due for the soybeans on the date of sale.

(4) Where a dealer or operator ceases to carry on business, a contract to which the dealer or operator is a party shall be considered to be closed out on the day that the other party to the contract became aware that the business was not being carried on. R.R.O. 1990, Reg. 450, s. 6.

7. Where,

(a) a dealer has not paid the producer the price of soybeans within fifteen days after the time the payment became due;

(b) a producer has reason to believe that a dealer or operator has ceased to carry on business;

(c) a producer has not received payment in respect of a sale of soybeans in storage as provided in subsection 18 (3) of the *Grain Elevator Storage Act* and the regulations thereunder;

(d) a grain elevator operator who is storing soybeans on behalf of a producer fails to deliver the whole or any part of such soybeans upon demand therefor; or

(e) the whole or any part of the assets of a grain elevator operator who is storing soybeans on behalf of a producer have been placed in the hands of a trustee for distribution under the *Bankruptcy Act* (Canada) or the *Bulk Sales Act* or in the hands of a receiver pursuant to a debenture or like instrument and the trustee or receiver fails to deliver to the producer the whole or any part of such soybeans upon demand therefor,

the producer shall forthwith notify the Director or Chief Inspector, as the case may be. R.R.O. 1990, Reg. 450, s. 7.

8. The,

(a) placing of the whole or any part of the assets of a dealer in the hands of a receiver pursuant to a debenture or like instrument; or

(b) ceasing, by a dealer or operator, to carry on business,

is prescribed as an additional condition to those referred to in subsection 3 (1) of the Act under which a producer may apply for payment from the Fund. R.R.O. 1990, Reg. 450, s. 8.

9.—(1) An application for payment from the Fund shall be made to the Board in a form satisfactory to the Board.

(2) A separate application shall be made to the Board in respect of each dealer against whom a producer has a claim and in respect of each operator against whom an owner has a claim.

(3) An application to the Board shall be made not later than thirty days next following the date on which the ground for making the claim arises. R.R.O. 1990, Reg. 450, s. 9.

10.—(1) On receiving an application under section 9 from a producer, the Board shall give notice of the claim, by registered mail, to the dealer and notify the Director of the application.

(2) On receiving an application under section 9 from an owner, the Board shall give notice of the claim, by registered mail, to the operator and notify the Chief Inspector of the application. R.R.O. 1990, Reg. 450, s. 10.

11. Where the Board determines that a claim is not valid, it shall refuse payment of the claim and shall,

- (a) give notice of the refusal, by registered mail, to the person who made the claim and to the person against whom the claim was made; and
- (b) notify the Director, where a producer made the claim, or the Chief Inspector, where an owner made the claim. R.R.O. 1990, Reg. 450, s. 11.

12. Where the Board determines that a claim is valid, it shall make payment from the Fund to the person who made the claim and notify,

- (a) the dealer and the Director, if the claim is from a producer; or
- (b) the operator and the Chief Inspector, if the claim is from an owner. R.R.O. 1990, Reg. 450, s. 12.

13.—(1) Where the Board makes a payment from the Fund, the dealer in respect of whom the payment is made shall,

- (a) pay to the Board; or
- (b) commence to pay by instalments in accordance with an undertaking approved by the Board,

the amount paid from the Fund.

(2) The Board shall notify the Director if a dealer fails,

- (a) to comply with the provisions of subsection (1); or
- (b) to make any instalment payment as it becomes due under an undertaking referred to in clause (1) (b). R.R.O. 1990, Reg. 450, s. 13.

14.—(1) The Board may refuse to make payments in respect of a claim,

- (a) subject to subsection (2), where the applicant claims payment in respect of a dealer who is not a licensed dealer;
- (b) where any cheque received by the applicant from a dealer is dishonoured by non-acceptance or non-payment unless the applicant has presented the cheque for payment within five banking days of the date on which the applicant received it;
- (c) where the applicant fails to make an application to the Board within the time prescribed by subsection 8 (3);
- (d) where the applicant has made an arrangement with the dealer whereby the time on which payment shall be made under subsection 6 (1) of Regulation 540 of Revised Regulations of Ontario, 1990 or under subsection 7 (1) of Regulation 383 of Revised Regulations of Ontario, 1990 is extended;
- (e) where the applicant is not the producer of the soybeans in respect of which the claim is made;

(f) where the deferred pricing arrangement referred to in subsection 6 (1) is not in writing and signed by the applicant and the dealer;

(g) where the applicant has failed to notify the Director in accordance with section 7; or

(h) where the applicant and the dealer are associated in any way and the conduct of the applicant or, where the applicant is a corporation, of an officer or director of the applicant or person having power to direct the management of the applicant, caused the default in payment and in the circumstances it would be inequitable to make a payment from the Fund.

(2) An applicant may be paid from the Fund where the claim is made in respect of soybeans sold to or stored by a dealer or operator whose licence was suspended, revoked or not renewed or had expired, if at the time the sale or storage was made the applicant was unaware of that suspension, revocation, non-renewal or expiry. R.R.O. 1990, Reg. 450, s. 14.

15. The Board, having regard to the circumstances of a case, may make payment from the Fund where a claim for payment is made in substantial conformity with subsection 9 (3). R.R.O. 1990, Reg. 450, s. 15.

16.—(1) The amount that may be paid out of the Fund to an applicant on any one application is,

- (a) in the case of a claim under subsection 3 (2) of the Act, 90 per cent of the market value of the soybeans in respect of which the claim is made on the day on which the grounds arose for making the claim;
- (b) in the case of a claim made in respect of a deferred pricing arrangement mentioned in subsection 6 (1), 90 per cent of the market price payable on the day the contract is closed out or considered to be closed out, less 75 per cent of the market price of the soybeans on the day payment on account was made unless the amount is more than 75 per cent in which case the actual amount paid;
- (c) in the case of a claim by an applicant mentioned in subsection (3), 90 per cent of the amount determined in accordance with subsections (3) and (4); and
- (d) in all cases not covered by clause (a), (b) or (c), 90 per cent of the amount of the claim.

(2) For the purpose of subsection (1), any default in payment by the claimant to the producer organization under the *Advance Payment for Crops Act* (Canada) arising from any default in payment by a dealer or a failure by an operator to deliver soybeans shall be included in the amount of the applicant's claim.

(3) Where the applicant is a producer who,

- (a) holds a licence as a dealer and has purchased soybeans before the day on which the claim arose; or
- (b) holds a licence as an operator and has stored soybeans for other owners before the day on which the claim arose,

the amount of soybeans in respect of which a claim may be paid out of the Fund shall not exceed the percentage, calculated under subsection (4), of the amount of soybeans in respect of which the claim is made.

(4) The percentage prescribed by subsection (3) shall be calculated by dividing the amount of soybeans produced by the applicant by the combined amount of any soybeans produced by the applicant, purchased by the applicant in their capacity as a dealer and stored by the applicant in their capacity as an operator. R.R.O. 1990, Reg. 450, s. 16.

Farm Products Payments Act

Loi sur le recouvrement du prix des produits agricoles

REGULATION 451

FUND FOR PRODUCERS OF VEGETABLES FOR PROCESSING

1. In this Regulation,

“Board” means the Processing-Vegetable Financial Protection Board;

“dealer” means a person engaged in the business of buying vegetables for processing from producers;

“Fund” means the Fund for Processing Vegetable Producers;

“licence” means a licence under the *Farm Products Marketing Act*, and “licensed” has a corresponding meaning;

“processing” means,

- (a) canning, dehydrating, drying, freezing, pickling or processing with sugar or sulphur dioxide or any other chemical or by heat, and combining or mixing a vegetable with one or more other vegetables, or
- (b) entering into a contract for the purchase of vegetables for the purpose of performing on the vegetables any of the operations mentioned in clause (a);

“producer” means a person engaged in the production of vegetables;

“vegetables” means the following vegetables produced in Ontario before 1992 and used for processing: green and wax beans, lima beans, red beets, cabbage except cabbage used for coleslaw, carrots, cauliflower, sweet corn, cucumbers, green peas, peppers, pumpkin, squash or tomatoes. R.R.O. 1990, Reg. 451, s. 1; O. Reg. 205/92, s. 1.

2. The fund for producers of vegetables known as the Fund for Processing Vegetable Producers is continued. R.R.O. 1990, Reg. 451, s. 2.

3.—(1) The board to be known as the Processing-Vegetable Financial Protection Board is continued to administer the Fund.

(2) The Board shall be composed of not fewer than eight members consisting of,

- (a) six members representing producers;
- (b) four members representing dealers; and
- (c) such other members as may be appointed by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council may designate one of the members of the Board as chair and one as vice-chair. R.R.O. 1990, Reg. 451, s. 3.

4. Vegetables are designated as a farm product. R.R.O. 1990, Reg. 451, s. 4.

5.—(1) REVOKED: O. Reg. 205/92, s. 2.

(2) In the case of every sale of vegetables by a producer to a dealer, the producer shall pay to the Board a fee that is one-tenth of 1 per cent of the average price per tonne for all grades of that vegetable in the year of sale.

(3) For the purposes of subsection (2), the average price for a vegetable is calculated by the Ontario Vegetable Growers' Marketing Board based on the price negotiated by the negotiating agency or fixed by arbitration for that vegetable.

(4) The dealer shall,

- (a) deduct from the money payable to the producer the fees payable to the Board by the producer; and
- (b) forward the fees to The Ontario Vegetable Growers' Marketing Board within two weeks of completion of harvest for the particular vegetable.

(5) The Ontario Vegetable Growers' Marketing Board shall forward all such fees to the Board on or before the 1st day of February next following the date of sale.

(6) The dealer shall provide the producer from whom fees are deducted with a statement of such fees at the time they are deducted.

(7) Every dealer shall keep for at least two years a record of all vegetables purchased and fees deducted. R.R.O. 1990, Reg. 451, s. 5 (2-7).

6. Where,

- (a) a dealer has refused to accept vegetables in accordance with the dealer's agreement with a producer;
- (b) a producer has not received payment for vegetables in accordance with the producer's agreement with a dealer; or
- (c) a producer is aware that the whole or any part of the dealer's assets are in the hands of a trustee or receiver,

the producer shall forthwith notify the Ontario Farm Products Marketing Commission. R.R.O. 1990, Reg. 451, s. 6.

7. The following are prescribed as additional conditions to those set out in subsection 3 (1) of the Act under which a producer may apply for payment from the Fund:

1. The placing of the whole or any part of a dealer's assets in the hands of a receiver pursuant to a debenture or like instrument.
2. The ceasing by a dealer to carry on business. R.R.O. 1990, Reg. 451, s. 7.

8.—(1) A separate application shall be made to the Board in respect of each dealer against whom a producer has a claim.

(2) An application shall be made not later than thirty days after the earliest of the following events occur:

1. The payment in respect of which the application is made becomes due.
2. The whole or any part of the dealer's assets is placed in the hands of a trustee for distribution under the *Bankruptcy Act* (Canada) or the *Bulk Sales Act* or in the hands of a receiver.
3. The dealer ceases to carry on business. R.R.O. 1990, Reg. 451, s. 8.

9. On receipt of an application under section 8, the Board shall,

- (a) give notice to the dealer by registered mail of the claim for payment; and

- (b) notify the Ontario Farm Products Marketing Commission. R.R.O. 1990, Reg. 451, s. 9.

10. Where the Board determines that a claim is not valid, it shall refuse payment of the claim and shall give notice of the refusal by registered mail to the person who made the claim and to the dealer and shall also notify the Ontario Farm Products Marketing Commission. R.R.O. 1990, Reg. 451, s. 10.

11. Where the Board determines that a claim is valid, it shall,

- (a) make payment from the Fund to the person who made the claim; and
- (b) notify the dealer and the Ontario Farm Products Marketing Commission. R.R.O. 1990, Reg. 451, s. 11.

12.—(1) Where the Board makes a payment from the Fund, the dealer in respect of whom the payment is made shall,

- (a) pay to the Board; or
- (b) commence to pay by instalments in accordance with an undertaking approved by the Board,

the amount paid from the Fund.

(2) Where a dealer fails,

- (a) to comply with subsection (1); or
- (b) to make any instalment payment as it becomes due under an undertaking referred to in clause (1) (b),

the Board shall notify the Ontario Farm Products Marketing Commission. R.R.O. 1990, Reg. 451, s. 12.

13.—(1) The Board may refuse to make payments in respect of a claim,

- (a) where any cheque received by the applicant from a dealer is dishonoured by non-acceptance or non-payment unless the applicant has presented the cheque for payment within five banking days of the date on which the applicant received it;

- (b) where the applicant fails to make an application within the time prescribed by subsection 8 (3);

- (c) where the applicant has made an arrangement with the dealer whereby the time on which payment becomes due is extended;

- (d) where the applicant has failed to notify the Ontario Farm Products Marketing Commission in accordance with section 6; or

- (e) where the applicant and the dealer are associated in any way and the conduct of the applicant or, where the applicant is a corporation, of an officer or director of the applicant or person having power to direct the management of the applicant, caused the default in payment and in the circumstances it would be inequitable to make a payment from the Fund.

(2) Subject to subsection (3), no payment shall be made from the Fund in respect of vegetables if the dealer was not licensed at the time the vegetables were delivered by the producer to the dealer.

(3) An applicant may be paid from the Fund if,

- (a) the applicant's claim is made in respect of vegetables sold to a dealer who was licensed for the crop year prior to the date on which the vegetables were delivered by the producer to the dealer; and
- (b) the applicant did not know, on the date mentioned in clause (a), that the dealer's licence had been suspended or revoked. R.R.O. 1990, Reg. 451, s. 13.

14. The Board, having regard to the circumstances of a case, may make payment from the Fund where a claim for payment is made in substantial conformity with subsection 8 (3). R.R.O. 1990, Reg. 451, s. 14.

15. The amount that may be paid out of the Fund to an applicant on any application shall be 90 per cent of the amount of the claim. R.R.O. 1990, Reg. 451, s. 15.

16. The Treasurer of Ontario is authorized to make out of the Consolidated Revenue Fund to the Board one grant in the amount of \$25,000. R.R.O. 1990, Reg. 451, s. 16.

17. REVOKED: O. Reg. 205/92, s. 3.

